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Honorable Edward F. Shea

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9 TIM GREEN,
10 Plaintiff,
11 v.
12 AMTECH, LLC, et al.,
13 Defendants.

Case No. 10-cv-3022-EFS
STIPULATED PROTECTIVE
ORDER REGARDING
CONFIDENTIAL
INFORMATION

14
15 The parties have stipulated, through their respective undersigned counsel, to
16 entry of this Stipulated Protective Order Regarding Confidentiality of Documents
17 and Testimony (“Protective Order”). For purposes of this Order, “Litigation” shall
18 refer to the above-captioned action.

19 Because it appears there is good cause identified below, it is therefore
20 ORDERED that:

21 1. For purposes of this Protective Order, “Document” shall be defined as it
22 is in Federal Rule of Civil Procedure 34(a).

23 2. For purposes of this Protective Order, “Testimony” shall be defined to
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1 mean testimony by any party or witness in the above-captioned action, including
2 but not limited to deposition testimony.

3 3. Scope: This Protective Order applies to all Confidential Documents and
4 Testimony produced by any party or any third party in this Litigation, whether
5 produced prior to or subsequent to the entry of the Protective Order. No
6 Confidential Documents or Testimony produced or provided by any party in the
7 course of this lawsuit, or information derived therefrom, shall be used by any
8 other party, expert, deponent or other person or entity to whom such Documents
9 or Testimony are disclosed, for any purpose other than this Litigation. This
10 Stipulation and Protective Order is intended to cover the following types of
11 documents:

- 12 a. Financial data produced by either party, such as tax returns, profit and
13 loss statements, and the like;
- 14 b. Medical records and information regarding any party or witness;
- 15 c. Documents from personnel files which do not relate to specific
16 instances of misconduct
- 17 d. Proprietary or confidential business information.
- 18 e. Any other documents deemed by either party to be sufficiently
19 confidential that production would be embarrassing, harassing,
20 detrimental to business functions, or invading the privacy of any party
21 or potential witness.

22 4. Confidential Designation: Documents or Testimony produced in this
23 Litigation referenced above which contain or which could lead to the disclosure of
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1 confidential business or private personal information may be designated by the
2 answering party, producing party, or witness as Confidential, and shall be deemed
3 Confidential and subject to the provisions of this Protective Order, subject to the
4 procedure for challenging confidentiality set forth below. No party or its
5 attorneys will designate as Confidential any Document or Testimony which they
6 know or believe not to be Confidential. If any party or witness claims that any
7 Document or Testimony, or any information contained therein, is Confidential,
8 then the party or witness claiming confidentiality shall mark (or cause to be
9 marked) the Document or Testimony, and each page thereof if the Document or
10 Testimony is in printed form, with a stamp identifying it as, "CONFIDENTIAL."
11 Such material shall thereafter be deemed Confidential subject to the procedure for
12 challenging confidentiality set forth below.

13 5. If Documents or Testimony deemed Confidential or any pleading
14 (including without limitation any motion, brief, memorandum, or other filing) that
15 includes any quotation from, or substantive reference disclosing the contents of
16 any Document or Testimony deemed Confidential are filed with the Court, the
17 party filing such Document, Testimony or pleading shall follow the procedures for
18 the sealing of documents.

19 6. Any party may designate portions of deposition testimony as
20 Confidential. If the designation is made during the deposition, the reporter of the
21 deposition containing such designated material shall designate and shall stamp or
22 mark that testimony or the subject pages as "CONFIDENTIAL" and put the
23 Confidential portions under separate cover. It shall not be necessary to designate

1 specific testimony as Confidential during the course of the deposition, although
2 the parties will attempt to do so. A party may, during the deposition or within ten
3 (10) business days after receipt of the final deposition transcript, notify the other
4 parties that the deposition testimony includes Confidential testimony. (For
5 purposes of this paragraph, the term “final deposition transcript” means the
6 transcript that is submitted by the court reporter to the witness for signature and/or
7 correction, whether or not the witness has yet signed or corrected the transcript.
8 “Final transcript” does not include the rough ASCII (or equivalent) version of a
9 deposition transcript that is provided in advance of the final transcript for the
10 convenience of counsel.) The party claiming confidentiality shall designate
11 specific portions of the transcript by page and line and any exhibits as
12 Confidential, and shall give written notice to opposing counsel of the specific
13 portions of transcripts and specific exhibits which have been designated as
14 Confidential. The parties will treat the entire transcript as Confidential until after
15 the deadline has passed for designation of the transcript; thereafter, only such
16 designated portions and exhibits shall be Confidential.

17 7. Disclosure of Documents or Testimony designated as Confidential,
18 including all information derived therefrom, shall be restricted solely to the
19 following persons who agree to be bound by the terms of this Protective Order,
20 unless additional persons are agreed upon and stipulated to in writing by counsel
21 or authorized by the Court:

22 (a) The parties;

(b) Outside or inside (if applicable) counsel for any party to the above-captioned Litigation including all employees of said counsel and employees in the legal department where inside counsel are employed, such as (without limitation) permanent and temporary attorneys, contract attorneys, law clerks, paralegal assistants, stenographic, and clerical employees;

(c) Those persons retained by any party herein for the purpose of furnishing consulting and/or expert services, or for giving expert testimony in this matter. Before disclosure, any such expert and/or consultant shall be shown a copy of this Protective Order and shall sign the declaration attached hereto as Appendix A, agreeing to be bound by its terms. The party retaining such persons shall maintain all signed, original declarations and, as to any testifying expert, shall make them available for inspection upon request by any other party at or after the time disclosure of experts is required by the case schedule, or at such other time as ordered by the Court. As to consulting experts whose disclosure is not otherwise required, the party retaining such persons shall maintain all signed, original declarations:

(d) This Court and its personnel including, but not limited to, stenographic reporters regularly employed by the Court, and stenographic reporters not regularly employed by the Court, who are engaged by the Court during this litigation; and

(e) A witness during the course of his or her deposition, or in preparation for that person's testimony at deposition or trial, if the attorney disclosing the Document or Testimony has a good faith belief that disclosing the Confidential

1 information is necessary to prepare that person for testimony. The parties and their
2 counsel agree that they will not reveal Confidential Documents or Testimony to a
3 witness unless there is a good faith basis to believe, based on prior testimony, or
4 documents, or based on the nature of the witness' job and its responsibilities, that
5 the witness has sufficient familiarity to testify about the subject matter of the
6 Document or Testimony. Before disclosure, any such witness shall be shown a
7 copy of this Protective Order and shall sign the declaration attached hereto as
8 Appendix A, agreeing to be bound by its terms. The parties shall maintain all
9 signed, original declarations and shall make them available for inspection upon
10 request by any other party, or by the Court, and the attorney at any time after the
11 witness has been disclosed pursuant to discovery requests, or the case schedule, or
12 at such other time as ordered by the Court. If the disclosure occurs during a
13 deposition the deponent may agree on the deposition record to be bound by the
14 terms of the Protective Order.

15 8. This Protective Order shall not constitute a waiver of any party's or non-
16 party's right to oppose any discovery request as provided under applicable state
17 and federal law. Nothing in this Protective Order shall prejudice any party from
18 seeking relief from this Court broadening or restricting the rights of access to and
19 use of Confidential information, or other modifications.

20 9. Within thirty (30) days after the entry of a final judgment no longer
21 subject to appeal on the merits of this case, each party herein shall return to the
22 producing party all produced documents and copies thereof that maintained their
23 confidentiality designation throughout the litigation, or alternatively, certify that

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1 those documents have been destroyed.

2 10. Each party herein reserves the right to dispute the Confidential status
3 claimed by any other party in accordance with this Protective Order. If any party
4 believes that any Document or Testimony has been designated inappropriately by
5 another party or witness as Confidential the party shall, in writing, inform counsel
6 for the party claiming confidentiality. If the party claiming confidentiality does
7 not agree to redesignate the Document or Testimony as nonconfidential within ten
8 (10) business days, the designating party must file an appropriate motion before
9 the Court, to be heard (in chambers if possible), and the burden shall be on the
10 party seeking confidentiality to establish good cause for designating the document
11 as Confidential. Until the Court rules otherwise, the disputed Document or
12 Testimony shall be treated as Confidential.

13 11. The inadvertent production of any Confidential Document lacking the
14 physical designation "CONFIDENTIAL" shall be without prejudice to any
15 subsequent claim that such material is Confidential, and no party shall be held to
16 have waived any rights by such inadvertent production so long as said change in
17 status of the document is disclosed in writing to the other party within ten (10)
18 business days of the discovery that the document has been produced without the
19 appropriate designation. Upon written demand of the producing party or non-
20 party, all copies of any Confidential Document lacking the physical designation
21 "CONFIDENTIAL" shall be returned immediately to the producing party or
22 designated as Confidential by the receiving party. If returned, the producing party
23 then will supply to each of the other parties a copy of the Document properly

designated "CONFIDENTIAL."

12. Nothing in this Stipulation (including the designation of any document) affects objections to discoverability or objections to admissibility at trial, except to the degree that the existence of this Stipulation shall mitigate arguments that production of confidential documents is inappropriate. However, this Stipulation does not wholly preclude the argument that production would invade privacy or that disclosure of privileged or confidential materials should not occur.

13. The Parties agree that during discovery a producing party who has inadvertently produced attorney-client privileged communications or work product documents may notify the receiving party of the privilege claim and, after such notice, the receiving party must return, sequester, or destroy the specified information, retrieve any copies shared with others, and may not use or disclose the allegedly privileged information until the claim is resolved pursuant to Fed. R. Civ. P. 26(b)(6).

This Order shall govern the production and disclosure of all Documents and Testimony produced or disclosed in this case, both before and after the entry of this Order.

IT IS SO ORDERED.

November 6, 2013
DATED _____
s/ Edward F. Shea

HONORABLE EDWARD F. SHEA
U.S. DISTRICT JUDGE

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DATED this 10th day of October, 2013.

s/ Robert D. Stewart

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Blackford Capital Associates, LLC;
Composites Consolidation Company, LLC;
Doug Christie; Kim Brazell; and Bill
Bushbaum*

DATED this 10th day of October, 2013.

s/ Gregory A. Hitzel

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